UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,946	12/06/2001	Arthur Lipper III	LIPPER, Arthur-PA-1	5599

7590 02/12/2007 OBER/KALER c/o Royal W. Craig 120 East Baltimore Street Baltimore, MD 21202	**EXAMINER** ZECHER, MICHAEL R

ART UNIT	PAPER NUMBER
3609	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

PTOL-90A (Rev. 10/06)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _12/06/2001_.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-11_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-11_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   The following is a non-final, first office action on the merits. Claims 1-11 are

pending.

Claim Objections

2.   Claim 2 is objected to because of the following informalities: the use of "allowing"

is grammatically incorrect. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

4.   Claims 1 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

5.   Where applicant acts as his or her own lexicographer to specifically define a term

of a claim contrary to its ordinary meaning, the written description must clearly redefine

the claim term and set forth the uncommon definition so as to put one reasonably skilled

in the art on notice that the applicant intended to so redefine that claim term. *Process*

Control Corp. v. HydReclaim Corp., 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed.

Cir. 1999). The term "pivot" security in claims 1 and 6 is not defined within the relevant

art nor is it understood by one reasonably skilled in the art. The term is indefinite

because the specification does not clearly define the term. Applicant refers to a website

that contains stock pivot references, but the website could not be found. Clarification is

required. For examination purposes, the limitation has been construed as--a security--.

Claims 2-5 and 7-11 depend from claim 1 and claim 6, respectively, and

therefore contains the same deficiencies.

6.   The term "absolute" in claims 1, 3, 6, and 8 is a relative term that renders the

claim indefinite. The term "absolute" is not defined by the claim, the specification does

not provide a standard for ascertaining the requisite degree, and one of ordinary skill in

the art would not be reasonably apprised of the scope of the invention. In mathematics,

the absolute value (or modulus) of a real number is its numerical value without regard to

its sign. So, for example, 3 is the absolute value of both 3 and –3. In computers, the

mathematical function used to perform this calculation is usually given the name abs().

It is unclear in claims 1 and 6 whether the term "absolute" is defined according to the

preceding mathematical definition. Clarification is required. For examination purposes,

the limitation has been construed as--the absolute value of a real number is its

numerical value without regard to its sign--.

Claims 3 and 8 depend from claim 1 and claim 6, respectively, and therefore

contains the same deficiencies.

Claim Rejections - 35 USC § 102

7.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8.   Claims 1 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by

Fernholz (U.S. 5,819,238).

As per claim 1, Fernholz teaches an automated system for dynamic security

price and value indexed comparison, comprising:

"a central web server running supporting software" (See #50 and #60 in Figure

1A and column 7, line 20-21, which depicts and discusses a central computer system

with a trade generation computer); "including a spreadsheet maintaining current and

historical security market figures" (See Figure 11, which depicts a table providing for

comparison between two dates); and "a security monitoring module for importing said

security figures into the spreadsheet" (See #65 in Figure 1A, column 7, lines 32-60, and

column 13, lines 49-55, which depict and discuss a dynamic portfolio management

system that inputs share prices and share price changes); "said central web server

being individually accessible by subscribers" (See column 7, lines 47-50, which

discusses a computer linkage through the internet or a private network);

"a comparator & indexer applet also maintained on the central web server" (See

#50 and #65 in Figure 1A, which depict a dynamic portfolio management system within

a central computer system); "accessible by said subscribers upon connection to the

central web server" (See column 7, lines 47-50, which discusses a computer linkage

through the internet or a private network); "to derive user-selectable security data from

the security market figures in the central server" (See #240 and #325 of Figure 3 and

column 14, lines 48-63, which depict and discuss storing data relating to current

portfolio holdings, including various predefined parameter values, and downloading

incoming market data); and "to calculate said user-selectable security data as absolute

values relative to a single pivot security," (See column 8, lines 16-24, which discusses

evaluating internally stored portfolio information and calculating a new weight according to a specified index, such as S & P 500); and "to display said user-selectable security data arranged in a table of rows of user-selectable securities and columns of statistics derived from said user-selectable security data" (See Figure 11, which depicts an index over user-selected criteria);

"whereby said automated system permits a user to compare, in both absolute and indexed terms, a plurality of statistics relating to the plurality of user-selected securities" (See Figure 11, which depicts an index over user-selected criteria).

As per claim 6, Fernholz teaches a method for dynamic security price and value indexed comparison, comprising the steps of:

"maintaining current and historical security market figures in a database for a plurality of securities" (See #65 in Figure 1A, column 7, lines 32-60, and column 13, lines 49-55, which depict and discuss a dynamic portfolio management system that inputs share prices and share price changes);

"providing individual access to said database for subscribers" (See column 7, lines 47-50, which discusses a computer linkage through the internet or a private network);

"allowing each accessing subscriber to designate a subset of securities from said database" (See #240 and #325 of Figure 3 and column 14, lines 48-63, which depict and discuss storing data relating to current portfolio holdings);

"allowing each accessing subscriber to designate one or more financial statistics to be calculated based on said historical security market figures, and displayed for each

designated security" (See #240 and #325 of Figure 3 and column 14, lines 48-63, which

depict and discuss storing data relating to current portfolio holdings and downloading

incoming market data; see Figure 11, which depicts an index over user-selected

criteria);

"allowing each accessing subscriber to designate one of said securities from said

subset to be a pivot security" (See #240 and #325 of Figure 3 and column 14, lines 48-

63, which depict and discuss storing data relating to current portfolio holdings, including

various predefined parameter values);

"calculating said financial statistics from said historical security market figures,

and for each financial statistic calculating indexed value relative to the corresponding

financial statistics for said pivot security" (See column 8, lines 16-24, and #65 in Figure

1A which discusses evaluating internally stored portfolio information and using the

dynamic portfolio management system to calculate a new weight according to a

specified index, such as S & P 500);

"displaying said financial statistics to said accessing user in absolute terms and

indexed values relative to the pivot security" (See Figure 11, which depicts an index

over user-selected criteria);

"whereby said method permits accessing users to compare, in both absolute and

indexed terms, a plurality of statistics relating to a plurality of user-selected securities"

(See Figure 11, which depicts an index over user-selected criteria).

Claim Rejections - 35 USC § 103

9.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

10.   Claims 2-5 and 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Fernholz (U.S. 5,819,238) as applied to claims 1 and 6 above, and further in view

of Reddy (U.S. 6,564,191).

As per claims 2 and 7, Fernholz discloses all of the elements of the claimed

invention, but fails to explicitly disclose the "comparator & indexer applet is a Java

applet that allow[s] each accessing subscriber to designate a subset of securities from

said database, designate one or more financial statistics, designate a pivot security,

calculate said financial statistics, and display said financial statistics to said accessing

user dynamically and in real time."

Reddy discloses a computer-implemented method for performance measurement

consistent with an investment strategy including "a comparator & indexer applet [that] is

a Java applet" (See column 11, lines 17-24, and Figure 10 which depict and discuss

the users on the Internet interacting with the computer-implemented performance

measurement method by using a web browser; a Java applet is simply defined as a web

browser); "that allow[s] each accessing subscriber to designate a subset of securities

from said database, designate one or more financial statistics, designate a pivot

security" (See column 4, line 21, which discusses designating a security symbol, the

investment amount, etc.); "calculate said financial statistics" (See column 4, lines 25-55,

which discuss calculating the internal rate of return); and "display said financial statistics

to said accessing user dynamically and in real time" (See column 4, line 56, which

indicates the calculation is displayed to the investor). Therefore, it would have been

obvious to one of ordinary skill in the art at the time of the invention to modify Fernholz

to include a web browser that allows a user to designate a subset of securities, financial

statistics, and a specified security as taught by Reddy in order calculate and display the

price and value comparison.

As per claims 3 and 8, Fernholz discloses all of the elements of the claimed

invention, but fails to explicitly disclose "said Java applet [that] allows each accessing

user to designate, calculate, and display said one or more financial statistics in

spreadsheet form by rows corresponding to each designated security and columns of

each financial statistic as either absolute values, or as indexed values relative to said

pivot security."

Reddy discloses a computer-implemented method for performance measurement

consistent with an investment strategy further comprising "said Java applet [that] allows

each accessing user to designate, calculate, and display said one or more financial

statistics in spreadsheet form by rows corresponding to each designated security and

columns of each financial statistic as either absolute values, or as indexed values

relative to said pivot security." (See Figures 4 and 8 which depict a table showing a

portfolio analysis and Modeling and Forecasting data). Therefore, it would have been

obvious to one of ordinary skill in the art at the time of the invention to modify Fernholz

to include a web browser that formulates spreadsheets portraying portfolio analysis and

forecasting trends of specified securities as taught by Reddy in order to provide details

and "what if " scenarios to the investor about investment and performance for individual

securities.

As per claims 4 and 9, Fernholz discloses all of the elements of the claimed

invention, but fails to explicitly disclose "one or more financial statistics includ[ing] any

subset among the group comprising...dividend yield (ttm)...per share book value

(ttm)...".

Reddy discloses a computer-implemented method for performance measurement

consistent with an investment strategy further comprising "one or more financial

statistics includ[ing] any subset among the group comprising...dividend yield (ttm)...per

share book value(ttm)..." (See tables 4 and 5 in column 6 and 7, which depict a

dividend & interest income, retrieved as a content variable, computed with investment

parameters to estimate a closing price). Therefore, it would have been obvious to one

of ordinary skill in the art at the time of the invention to modify Fernholz to compare

security price and value using financial statistics such as dividend yield or per share

book value as taught by Reddy in order to provide the investor a comprehensive set of

investment analysis tools.

As per claims 5 and 10, Fernholz discloses all of the elements of the claimed

invention, but fails to explicitly disclose a system that "allows said accessing user to

compare the designated securities based on personalized opportunity costs".

Reddy discloses a computer-implemented method of performance measurement

consistent with an investment strategy which "allows said accessing user to compare

the designated securities based on personalized opportunity costs" (See Table 10 in

column 10 which allows investors to vary their investment amounts in relation to their

investment goals) . Therefore, it would have been obvious to one of ordinary skill in the

art at the time of the invention to modify Ferhnolz to allow investors to strategize how

varying designated securities would affect their investment goals as taught by Reddy in

order to analyze the performance of financial security consistent with a long term

investment strategy.

As per claim 11, Fernholz discloses all of the elements of the claimed invention,

but fails to explicitly disclose a "step of maintaining current and historical security market

figures in a database for a plurality of securities is implemented as a second Java

applet, and said first and second Java applets cooperate to maintain said spreadsheet

display updated in real time."

Reddy discloses a computer-implemented method of performance measurement

consistent with an investment strategy wherein "said step of maintaining current and

historical security market figures in a database for a plurality of securities is

implemented as a second Java applet, and said first and second Java applets

cooperate to maintain said spreadsheet display updated in real time" (See Figure 10

which describes and gives an overview of the implementation of the method of

performance measurement with an investment strategy in a computer system

connected to the Internet). Therefore, it would have been obvious to one of ordinary

skill in the art at the time of the invention to modify Fernholz to use more than one web

browser in creating a security price and value comparator and indexer where one web

browser maintains current and historical market figures and another web browser

cooperates to display a correlating spreadsheet as taught by Reddy in order to execute

browser requests and application logic in a more proficient manner.

Conclusion

11.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

Anderson (U.S. 6,064,985) automated portfolio management system with

Internet Datafeed.

Fried (U.S. 6,035,286) discloses a computerized system and method for creating

a buyback stock investment report.

Michaeud et al. (6,003,018) discloses portfolio optimization means of resampled

efficient frontier.

Barr et al. (U.S. 5,761,442) discloses method for selecting a portfolio of securities

using data relating to a corresponding security.

Bloom et al. (U.S. 6,061,663) discloses index rebalancing.

"BondEdge Version 4.1 Released with New Global Functionality" (PR Newswire)

discloses a portfolio analytical system that offers comparisons and index reporting.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Michael R. Zecher whose telephone number is 571-270-

3032. The examiner can normally be reached on M-F 7:30-5:00 alt. Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Lynda Jasmin can be reached on 571-270-3033. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MRZ